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MAR 30 2005

Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

CHARLES "KIRK" KIRKPATRICK

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CRIMINAL No. CR-H-05-139

VIOLATIONS:

18 U.S.C. § 371 (conspiracy - 1 count)

49 U.S.C. §§ 32703(2) and 32709(b)

(odometer tampering - 2 counts)

18 U.S.C. § 1341 (mail fraud - 2 counts)

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

(18 U.S.C. § 371 - Conspiracy)

1. At times relevant and material to this Indictment, defendant CHARLES "KIRK" KIRKPATRICK performed services for automobile dealers in the Houston, Texas, area.

2. As used in this Indictment, the following vehicle numbers refer to the vehicles identified below:

<u>Vehicle No.</u>	<u>Year/Make</u>	<u>Vehicle Identification Number</u>
1	1998 Ford	1FAFP52U7WG123335
2	1998 Ford	1FTZX1721WKA56946
3	1996 Ford	1FALP52U7TA114085
4	1999 GMC	3GKEC16R4XG501900
5	1998 Pontiac	1G2WJ52K6WF326057

THE CONSPIRACY

3. Beginning as early as 1995, and continuing through at least 2002, in the Southern District of Texas and elsewhere, CHARLES "KIRK" KIRKPATRICK, defendant herein, did knowingly and intentionally combine, conspire, confederate, and agree with a co-conspirator known to the Grand Jury to commit offenses against the United States, that is:

a. knowingly to reset and alter, and cause to be reset and altered, the odometers of motor vehicles, intending to change the mileage registered by the odometers, in violation of Title 49, United States Code, Sections 32703(2) and 32709(b); and

b. knowingly to give and cause to be given, in making the written disclosures to the buyers of used motor vehicles required by Title 49, United States Code, Section 32705(a), and Title 49, Code of Federal Regulations, Part 580, false statements relating to the actual mileage of the vehicles, in violation of Title 49, United States Code, Sections 32705(a) and 32709(b); and

c. to place and cause to be placed in authorized depositories for mail, to be sent and delivered by the United States Postal Service, and to cause to be taken and received from the United States Postal Service, documents relating to used motor vehicles bought and sold by a co-conspirator, for the purpose of executing and attempting to execute a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, well knowing that said pretenses, representations, and promises would be false and fraudulent when made, in violation of Title 18, United States Code, Section 1341.

PURPOSE OF THE CONSPIRACY

4. It was the purpose of the conspiracy to cause both the immediate and subsequent buyers of used motor vehicles, including ultimate consumers, to pay more for the vehicles than they would have paid if they had known the vehicles' correct mileage readings.

MANNER AND MEANS OF THE CONSPIRACY AND MAIL FRAUD SCHEME

5. It was part of the conspiracy and the scheme that CHARLES "KIRK" KIRKPATRICK, defendant herein, along with a co-conspirator known to the Grand Jury, did knowingly devise and intend to devise a scheme and artifice to defraud and to obtain money and property from buyers of used motor vehicles by means of materially false and fraudulent pretenses, representations, and promises, well knowing that said pretenses, representations, and promises would be and were false and fraudulent when made.

6. It was further part of said conspiracy and scheme that a co-conspirator known to the Grand Jury would and did use a used motor vehicle dealer's license (also known as a Texas dealer general distinguishing number) in the name of Mobile Auto Sales (P14674), as well as other dealer names, including Central Auto Rental Systems (C.A.R.S.), to buy and sell used motor vehicles at wholesale auctions and elsewhere.

7. It was further part of said conspiracy and scheme that defendant CHARLES "KIRK" KIRKPATRICK would and did reset and alter, and cause to be reset and altered, the odometers of numerous motor vehicles purchased by a co-conspirator known to the Grand Jury, including vehicles the co-conspirator kept for personal use, so that the vehicles' odometers would indicate mileage figures lower than the vehicles' actual mileages.

8. It was further part of said conspiracy and scheme that, to hide the fact that the odometers had been rolled back, a co-conspirator known to the Grand Jury would and did alter the mileage readings appearing on the title documents associated with those vehicles to reflect false, low-mileage readings.

9. It was further part of said conspiracy and scheme that the actions and misrepresentations of CHARLES "KIRK" KIRKPATRICK and his co-conspirator would and did cause the Texas State Department of Highways and Public Transportation, Division of Motor Vehicles, to deliver, through the United States Postal Service, new titles bearing false, low odometer readings to consumers who purchased the rolled-back vehicles.

10. It was further part of said conspiracy and scheme that a co-conspirator known to the Grand Jury would and did pay defendant CHARLES "KIRK" KIRKPATRICK for rolling back the odometers on the co-conspirator's vehicles, including vehicles the co-conspirator retained for personal use. The co-conspirator then would receive a higher sales price for those vehicles than he would have received if he had informed buyers of the vehicles' true mileage readings, and buyers of the vehicles would and did pay more for the vehicles than they would have paid if they had known the vehicles' correct mileage readings.

OVERT ACTS

11. In order to effect and accomplish the objects and purposes of the conspiracy, CHARLES "KIRK" KIRKPATRICK and his co-conspirator did commit numerous overt acts, in the Southern District of Texas and elsewhere, among which were the following:

Vehicle 1

- a. On or about July 2, 1999, a co-conspirator known to the Grand Jury purchased Vehicle No. 1 with at least 66,928 miles on the odometer.
- b. On or about July 2, 1999, defendant CHARLES "KIRK" KIRKPATRICK did knowingly and willfully reset and alter the odometer of Vehicle No. 1 with the intent to change the number of miles indicated on the odometer.
- c. On or about February 2, 2000, in connection with the sale of Vehicle No. 1, a co-conspirator known to the Grand Jury caused to be signed an odometer statement falsely certifying that Vehicle No. 1 had only 32,291 miles.
- d. On or about February 9, 2000, a co-conspirator known to the Grand Jury caused to be delivered by the United States Postal Service a title mailed by the Texas State Department of Highways and Public Transportation, Division of Motor Vehicles, bearing false mileage, to the consumer purchaser of Vehicle No. 1.

Vehicle 2

- e. On or about November 8, 1999, a co-conspirator known to the Grand Jury purchased Vehicle No. 2 with at least 111,533 miles on the odometer.
- f. On or about November 8, 1999, defendant CHARLES "KIRK" KIRKPATRICK did knowingly and willfully reset and alter the odometer of Vehicle No. 2 with the intent to change the number of miles indicated on the odometer.
- g. On or about April 18, 2000, in connection with the sale of Vehicle No. 2, a co-conspirator known to the Grand Jury caused to be signed an odometer statement falsely certifying that Vehicle No. 2 had only 17,656 miles.

h. On or about April 25, 2000, a co-conspirator known to the Grand Jury caused to be delivered by the United States Postal Service a title mailed by the Texas State Department of Highways and Public Transportation, Division of Motor Vehicles, bearing false mileage, to the consumer purchaser of Vehicle No. 2.

Vehicle 3

i. On or about June 21, 1999, a co-conspirator known to the Grand Jury purchased Vehicle No. 3 with at least 74,629 miles on the odometer.

j. On or about June 21, 1999, defendant CHARLES "KIRK" KIRKPATRICK did knowingly and willfully reset and the odometer of Vehicle No. 3 with the intent to change the number of miles indicated on the odometer.

k. On or about July 5, 2000, in connection with the sale of Vehicle No. 3, a co-conspirator known to the Grand Jury caused to be signed an odometer statement falsely certifying that Vehicle No. 3 had only 47,069 miles.

l. On or about July 14, 2000, a co-conspirator known to the Grand Jury caused to be delivered by the United States Postal Service a title mailed by the Texas State Department of Highways and Public Transportation, Division of Motor Vehicles, bearing false mileage, to the consumer purchaser of Vehicle No. 3.

In violation of Title 18, United States Code, Section 371.

COUNTS TWO and THREE
(18 U.S.C. §§ 1341 and 2 - Mail Fraud)

1. Paragraphs 1, 2, and 5 through 10 of Count One are realleged here as if fully set forth.

2. Beginning as early as 1995, and continuing through at least 2002, the exact dates being unknown to the Grand Jury, within the Southern District of Texas and elsewhere, defendant CHARLES "KIRK" KIRKPATRICK and others devised and intended to devise a scheme and artifice to defraud and to obtain money and property from buyers of used motor vehicles by means of false and fraudulent pretenses, representations, and promises, well knowing that said pretenses, representations, and promises would be and were false and fraudulent when made.

3. On or about the dates listed below, within the Southern District of Texas, for the purpose of executing and attempting to execute said scheme and artifice to defraud, defendant CHARLES "KIRK" KIRKPATRICK caused to be taken and received from the United States Postal Service, certified copies of titles and other documents bearing false mileage mailed by the Texas State Department of Highways and Public Transportation, Division of Motor Vehicles, to the consumer purchasers of the used motor vehicles listed below, each such instance being a separate and additional Count of this Indictment:

<u>Count</u>	<u>Vehicle No.</u>	<u>Date</u>
2	2	April 25, 2000
3	3	July 14, 2000

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS FOUR AND FIVE

(49 U.S.C. §§ 32703(2) and 32709(b) and 18 U.S.C. § 2 – Odometer Tampering)

1. Paragraphs 1 and 2 of Count One are realleged here as if fully set forth.
2. On or about the dates listed below, in the Southern District of Texas, CHARLES “KIRK” KIRKPATRICK, defendant herein, did knowingly and willfully reset and alter, and cause to be reset and altered, the odometers of the motor vehicles listed below, with the intent to change the number of miles indicated on the odometer from the approximate high mileages listed below to the approximate false mileages listed below, each such instance being a separate and additional Count of this Indictment:

<u>Count</u>	<u>Vehicle No.</u>	<u>Date</u>	<u>High Mileage</u>	<u>False Mileage</u>
4	4	July 1, 2003	42,672	32,674
5	5	January 15, 2004	61,232	48,871

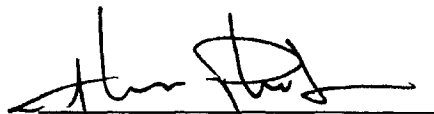
In violation of Title 49, United States Code, Sections 32703(2), 32709(b), and 2.

A TRUE BILL:

/s/

GRAND JURY FOREPERSON

By:



ALAN PHELPS
Assistant United States Attorney
(202) 307-6154